

**UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD**

ALISON KOHLER,
Appellant,

DOCKET NUMBER
NY-0752-15-0199-M-1

v.

DEPARTMENT OF HOMELAND
SECURITY,
Agency.

DATE: December 28, 2016

THIS ORDER IS NONPRECEDENTIAL*

Alison Kohler, Oceanside, New York, pro se.

Shayla N.M. Sipp, Esquire, Washington, D.C., for the agency.

BEFORE

Susan Tsui Grundmann, Chairman
Mark A. Robbins, Member

REMAND ORDER

¶1 The U.S. Court of Appeals for the Federal Circuit has remanded this case at the Board's request. *Kohler v. Department of Homeland Security*, No. 2016-1835, slip op. (Fed. Cir. Sept. 13, 2016). The Board VACATES its prior split-vote order in the underlying case, MSPB Docket No. NY-0752-15-0199-I-1,

* A nonprecedential order is one that the Board has determined does not add significantly to the body of MSPB case law. Parties may cite nonprecedential orders, but such orders have no precedential value; the Board and administrative judges are not required to follow or distinguish them in any future decisions. In contrast, a precedential decision issued as an Opinion and Order has been identified by the Board as significantly contributing to the Board's case law. See [5 C.F.R. § 1201.117\(c\)](#).

and REMANDS the case to the administrative judge for further consideration in light of the Court's decision in *Mitchell v. Merit Systems Protection Board*, [741 F.3d 81](#) (Fed. Cir. 2014).

FOR THE BOARD:

Jennifer Everling
Acting Clerk of the Board

Washington, D.C.